

3. Election/Restriction

The method claims have been cancelled, without traverse of the requirement for restriction between the method and apparatus claims. However, applicants do not agree with the inference that “hanging up hats or bags” would constitute practice of the intravenous infusion method that is defined in the withdrawn method claims.

4. Section 112 Rejection of Claims 1-6 and 14-22

The Examiner is correct that these claims are intended to be drawn to the subcombination of the hanger structure *per se*.

During the July 20 telephone conference, applicants’ attorney began to suggest revisions in claim 1 to avoid the objections and Section 112 rejection as set forth on pages 4 and 5 of the Office Action dated June 5, 2000. However, the Examiner then stated that claim 1 was acceptable as previously presented. It is proposed to add the word “adapted” is added in line 3, per a preference noted by the Examiner.

The reference to “said means” in the last clause of claim 1 clearly refers back to the “means for attaching ...” as recited in the third paragraph of the claim where the subject “means” is defined in the conventional “means for ... (function) ...” language which is recommended by the Patent Office for compliance with the sixth paragraph of Section 112. The term “attaching” now is repeated in the last clause for further clarity. The Examiner affirmed that the “means” recitations are in appropriate form.

Thus, it is understood that the Section 112 rejection is removed.

5. Claims Previously Held To Be Allowable If Rewritten (Claims 16-22)

Claims 16, 18 and 22 have been rewritten in independent form incorporating the approved text of claim 1 (and the text of claim 15 in claim 16). Claims 17, 19, 20 and 31 are dependent upon claims 16 and 18, respectively. Thus, claims 16-22 include all of the

limitations of the base claim and the respective intervening claims, with the text which was acknowledged to avoid the rejection under 35 U.S.C. § 112, second paragraph. The requirements noted in the Office Action regarding allowability of these claims have been met, and they are understood to be allowable.

6. *Section 102 Rejection Of Claims 1-6, 14, 15 and 32 Based Upon Foley*

The 102 rejection refers to claim "32". Claim 32 of course is a method claim that was held to be withdrawn from consideration under the requirement for restriction, and has been deleted.

No basis was stated in the Office Action for the rejection of claim 31. Moreover, assuming that the reference to "32" was intended to be a reference to claim 31, please note that claim 31 specifies the combination of a vertical partition which has a vertical surface, and the defined hanger assembly mounted in a vertical position on that vertical surface of that vertical partition. Foley deals emphatically and only with ceiling mounted units, that is, on a horizontal ceiling surface, and also involves other structural differences that are directly related to its ceiling mounting. This includes, for example, the facts that the Foley unit pivots around the vertical axis of the vertical post 10, with the rod 24 and the tubular bracket 22 and the vertical member 26 always being in the plane defined by the elements 22 and 42, and the member 26 always is perpendicular to the ceiling 14, to the mounting plate 32 and to the base flange 36. The Foley unit is designed to thus swing around in a horizontal plane over a bed. Foley wouldn't function on a wall. It is not for vertical surface mounting. For such reasons, claim 31 clearly is neither anticipated nor suggested by the Foley disclosure. Rather, the combination defined in claim 31 is antithetical to Foley's teachings.

The word "flat" in line 13 lacked antecedent basis after the previous amendments to that claim, and is deleted, as noted during the interview.

Turning to claims 1-6, 14 and 15, independent claim 1 emphasizes applicants' unique assembly specifically designed for mounting on a vertical surface. Claim 1 includes recitations that require the hanger pole to be parallel to and spaced laterally from the flat mounting portion. The claim further requires that the mounting member, its flat mounting portion and the attaching means provided for mounting to a vertical planar surface of a partition in a vertical position parallel and adjacent that respective vertical planar surface.

Foley does not disclose or suggest the infusion equipment hanger assembly of claim 1. Foley's mounting plate 32 is perpendicular to the plane defined by the elements 22 and 42. The plate 32 may traverse the plane of the elements 22 and 42 but it does not define that plane and is not in that plane. Second, Foley's mounting members 22 and 42 do not include a flat mounting portion. Third, nothing in Foley is designed or adapted for mounting a flat mounting portion thereof in a generally vertical position parallel to and adjacent a vertical planar surface of a vertical partition. Foley would not function as designed with such a mounting. Fourth, Foley's pole structure 26, 30 etc., is perpendicular to the plane of Foley's mounting plate 32. It is neither parallel to nor offset laterally from Foley's mounting plate. Fifth, Foley's hanger pole structure 26, 30 etc. inherently is in the plane defined by Foley's elements 22, 42, and is not spaced laterally from that plane. Because of at least these differences from the infusion equipment hanger as recited in claim 1, as required for the practice of applicants' invention as claimed, Foley fails to anticipate or even suggest claim 1 or the respective dependent claims.

In re Appln. of Breda et al.
Application No. 09/238,950

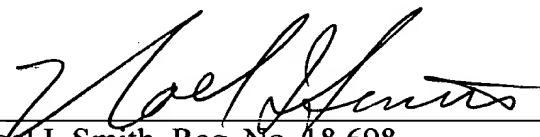
Applicant's claimed IV infusion hanger assembly differs from the Foley teachings in structure, manner of mounting, manner of operation and operational results.

It is submitted that each of the independent claims 1 and 31 is allowable as properly defining a patentable invention, along with the dependent claims 2-6, 14 and 15, as well as the remaining dependent claims 7-13.

This amendment is necessary to address the issues and requirements raised in the rejection of June 5, 2000, and is appropriate under 37 C.F.R. § 1.116.

It is submitted that the application is in condition for allowance. Reconsideration and allowance are requested accordingly.

Respectfully submitted,



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